



WESTFIELD-WASHINGTON

BOARD OF ZONING APPEALS

June 15, 2010

1006-VU-02

Exhibit 1

PETITION NUMBER:	1006-VU-02
SUBJECT SITE ADDRESS:	19653 Six Points Road
APPELLANT:	Sundown Gardens, Inc.
REQUEST:	The Appellant is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (WC 16.04.070-2) to allow for the use of Nursery, Plants-Retail.
CURRENT ZONING:	OI
CURRENT LAND USE:	Vacant
APPROXIMATE ACREAGE:	2 +/-
RELATED CASES:	None
EXHIBITS:	1. Staff Report 2. Aerial Location Map 3. Appellant's Application
STAFF REVIEWER:	Ryan Schafer

PETITION HISTORY

The June 15, 2010 Board of Zoning Appeals meeting represents the first hearing of this petition before the Board.

PROPERTY HISTORY

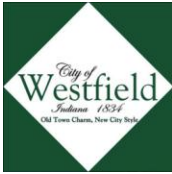
There are no previous zoning cases regarding the property at 19653 Six Points Road (the "Property"). The Property's Open Industrial (OI) zoning classification dates back to 1977, when zoning was established in Westfield-Washington Township. The property was previously used for a landscaping business.

ANALYSIS

The petitioner is requesting a use variance to allow for a retail component of the proposed landscaping business operation on the Property. The OI zoning classification allows for the use of a landscaping business, however, the use classification of "Nursery, Plants- Retail" is not permitted. According to the petitioner, it is projected that less than 10% of overall transactions will originate from retail sales. The long-range plan is to develop this Property as the petitioner's base for contractual landscaping (non-retail) services, however to still allow a small component for retail transactions for local residents of Westfield-Washington Township.

Adjacent parcels near the Property are used primarily for agriculture/farming. The Property is surrounded by agricultural uses to the north, east, and west; a single family residential use abuts to the south (see Exhibit 2).

The Property is located within an area that is identified in the Westfield Washington Comprehensive Plan ("the Comprehensive Plan") as "New Suburban Northwest". This classification identifies agribusiness as a typical land use within this geographical area. The



New Suburban classification allows for subordinate “rural-related businesses”. The Proposed Use is consistent with the recommendations established in the Comprehensive Plan; rural uses should be promoted until market forces create pressure for the desire of planned suburban residential development. The Comprehensive Plan states that “this area will continue to have rural uses and rural feel into the immediate future”.

PROCEDURAL

A Board of Zoning Appeals shall approve or deny variances of use from the terms of the zoning ordinance. The board may impose reasonable conditions as a part of its approval. A variance may be approved under IC 36-7-4-918.4 only upon a determination in writing that:

STANDARDS FOR USE VARIANCE REQUEST

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

Finding: It is unlikely that the Proposed Use would be injurious to the public health, safety, morals, and general welfare of the community. The addition of a retail component to the Property is consistent with how the Property was used in the past. The Property is fully accessible in the event of an emergency situation.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

Finding: It is unlikely that the use and value of adjacent property will be affected in a substantially adverse manner. The Proposed Use is consistent with the Comprehensive Plan as well as adjacent and neighboring agricultural uses.

3. The need for the variance of use arises from some condition particular to the property involved:

Finding: The Property has historically been utilized as a retail landscaping business; infrastructure is still in place to conduct such an operation. The proposed use is best suited for this site considering the structural and geographical characteristics of the Property.

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance of use is sought:

Finding: The list of permitted uses for the OI District do not take into consideration the site specific qualities that the Property possesses for light retail of agricultural related products. The proposed use of “Nursery, Plants- Retail” for the Property would be incidental to the primary use of the Property. This creates an unnecessary hardship for the petitioner to adequately use the property in a reasonable manner which would be consistent with adjacent, existing agricultural uses.



5. The approval does not interfere substantially with the comprehensive plan:

Finding: The Property is located in an area the Comprehensive Plan identifies as “New Suburban Northwest”. This classification allows for the Proposed Use, as agribusiness is identified in the Comprehensive Plan’s recommendation for the area. Therefore an approval would not substantially interfere with the Comprehensive Plan.

RECOMMENDATIONS

Approve the request for variance based on the findings of this report.

RAS